IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

Crl.MC.No. 3959 of 2006()

[CRIME NO.412/2006 OF THE KANJIRAPPALLY POLICE STATION]

PETITIONER/ACCUSED:

M.A.ABDUL NAZAR, S/O.ABUBECKER,
MADURA HOUSE, NEAR KANJIRAPPALLY,
FIRE STATION, KANJIRAPPALLY KARA,
KANJIRAPPALLY VILLAGE.

BY ADV. SRI.K.A.HASSAN

RESPONDENTS/COMPLAINANT & STATE:

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1. CIJI GEORGE, AGED 31, W/O.SHIBU,
CHITTETH HOUSE, MAVIDA VILLAGE,
MAVIDA KARA, PALA.

2. K.M.NASEER, (KOTTANGAL), NOW RESIDING
AT ANJILLIPPA COLONY,
ANJALIPPA, KANJIRAPPALLY.

3. THE S.I. OF POLICE, KANJIRAPPALLY.

2. THE CIRCLE INSPECTOR OF POLICE, KANJIRAPPALLY.

3. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3959 of 2006

Dated this the 4th day of December 2006

O R D E R

The petitioner is the defacto complainant in crime No.296/06 of Kanjirapally police station. The crux of the allegation in that complaint is the first accused, to whom he had handed over 29 passports and cash, had cheated the petitioner/defacto complainant in that crime. These passports admittedly were obtained by the petitioner from different individuals in connection with the professional activity of the petitioner.

2. Later, one of the persons, who had entrusted the passport to the petitioner also lodged a complaint before the police and on the basis of that complaint, crime No.412/06 has been registered against the petitioner. In that crime also, it is alleged that the accused/petitioner herein has committed the offence punishable under Section 420 I.P.C. The allegation is that the petitioner had, with fraudulent intention, received the passport and amounts from the defacto complainant in crime No.412/2006. The petitioner has been arrested and released on bail in the said crime.

3. The petitioner has come to this court with the prayer that the F.I.R registered against him in Crime No.412/2006 and all further

steps taken in pursuance of the same may be quashed.

4. What is the reason? According to the petitioner, the petitioner has not committed any offence. He further alleges that much earlier, he had filed the earlier crime, which is also being investigated by the police. The petitioner is legally permitted to carry on the business and there is no element of offence of cheating in his conduct. He had acted honestly and in a straight forward manner. He was the victim of fraud and not the offender. In these circumstances, it is prayed that the investigation against the petitioner may be quashed. Pending crime No.296/06, may be directed to be investigated properly and effectively.

5. I need only mention that both crimes have to be investigated properly, efficiently and effectively by the Kanjirapally police station. The allegations in the two crimes appear to be interconnected. In the later crime, the passport holder has complained about the offence of cheating allegedly committed by the petitioner whereas in the earlier crime, the petitioner has alleged commission of the same crime by the accused in the earlier crime.

6. It will be presumptuous on the part of the court at this stage and with the available inputs to take a decision as to which allegation raised is correct and which is false. If the petitioner was

really cheated and was not guilty of any culpable indiscretion, police after investigation, must report that fact to the court. At any rate, at this stage I find no reason to invoke the jurisdiction under Section 482 Cr.P.C to interfere with the investigation in the later crime registered against the petitioner.

7. I agree with the submission of the learned counsel for the petitioner that both crimes deserve to be investigated properly and effectively. I am satisfied that it need only be directed that the fourth respondent shall expeditiously complete the investigation in both crimes. The fifth respondent must effectively supervise the investigation conducted by the fourth respondent. With the above observations/directions, this Crl.M.C is dismissed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006